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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1949

No. 211

CENTAUR CONSTRUCTION COMPANY, INC.,
Petitioner,

vs.

THE UNITED STATES,
Respondent

PETITIONER'S REPLY BRIEF TO RESPONDENT'S BRIEF IN OPPOSITION

Counsel for petitioner think the case at bar is distinguishable from the authorities cited by respondent in its brief, page 5, footnote 2, *Phillips Co.* v. *Grand Trunk Ry. Co.*, 236 U. S. 662, 667, and following authorities.

Those authorities merely involved the right to collect overcharges on freight rates under the Interstate Commerce Act, which required that application must be made to the Interstate Commerce Commission within two years after the accrual of the claim. After the allowance of the claim by the Commission the applicant then had the right to sue the railway companies in the United States Courts within one year from the date the order was made by the Commission. In these three cases application was made to

the Commission for the overcharges and suits were brought in the United States Courts against the carriers to enforce collection. The distinction is that in the case at bar, suit was brought in the United States Court of Claims under its general jurisdiction as amended by the relief provisions of the Relief Act. (See Petition, pars. 2, 3, R. 1; pars. 4, 5, R. 2, 3, 4, 11-30, R. 6-20).

In the authorities cited by respondent no amendatory act making applicable relief provisions of a relief act to the general jurisdiction of the Court of Claims, as in the case at bar, was involved. In other words, if there had not been any amendatory Act in the case at bar and just the relief Act, the situation would have been somewhat similar to respondent's authorities, but here we have the relief Act, the amendatory Act and the general jurisdictional statute of the Court of Claims which are in pari materia and must be taken together as if they were one law. *United States* v. *Stewart*, 311 U. S. 60, 64; and *United States* v. *Freeman*, 3 How. (U. S.) 556, 564.

The authorities cited by respondent involve the Interstate Commerce Act of June 29, 1906, Sec. 16, par. 3, Title 49 U. S. C. This same Interstate Commerce Act as amended by the Transportation Act of February 28, 1920 was involved in *United States* v. *St. Louis, S. F. & T. Ry. Co.*, 270 U. S. 1, and cited in petitioner's original brief, p. 14. The railway sued in the Court of Claims under its general jurisdiction and within the statute of limitations of six years from the date of the accrual of the cause of action but after the lapse of three years provided by the transportation Act. This Court held that the three-year limitation did not apply and that the action was not barred. Also see *Schaff, Receiver, Missouri, Kansas & Texas Ry. Co.* v. *United States*, 59 Ct. Cls. 318; and *Central Railroad of N. J.* v. *United States*, 60 Ct. Cls. 578.

Respondent in its brief discusses the reviving and recreation of the claim. Even if the effect of the legislation of the amendatory Act, in the case at bar, is to revive a claim or action, Congress has the power to do so. *Allen Pope* v. *United States,* 323 U. S. 1; *United States* v. *Realty Co.,* 163 U. S. 427; *Roberts* v. *United States,* 92 U. S. 41; *United States* v. *Cook,* 257 U. S. 523; and *Cincinnati Soap Co.* v. *United States,* 301 U. S. 308, 314.

Respectfully submitted,

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